

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Neil P. DESAI et al.

Application No.: 10/731,224

Confirmation No.: 4904

Filed: December 9, 2003

Art Unit: 1656

For: COMPOSITIONS AND METHODS OF
DELIVERY OF PHARMACOLOGICAL
AGENTS

Examiner: M. Tsay

**RESPONSE TO INTERVIEW SUMMARY AND RESPONSE TO RESTRICTION
AND ELECTION OF SPECIES REQUIREMENT**

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

This is in response to the restriction and election requirements set forth in the Office Action mailed November 20, 2007 (Paper No. 200711114), for which a response is due on December 20, 2007. Accordingly, this response is timely filed.

REMARKS

Substance of Interview Summary

An interview with Examiner Tsay was held by telephone on November 14, 2007 and November 28, 2007. In addition to Examiner Tsay and Stephanie Yonker (the undersigned), Jie Zhou participated in the November 14, 2007 interview. Applicants and their representatives would again like to thank Examiner Tsay for the courtesy of the telephonic interview.

The subject of the November 14, 2007 telephonic interview was the Restriction Requirement issued 08/23/07 and the election of species requirement. Examiner Tsay indicated that she would issue a new Restriction Requirement. The subject of the November 28, 2007 telephonic interview was the Restriction Requirement issued 11/20/2007. Examiner Tsay indicated that the Restriction Requirement issued 08/23/07 was vacated in view of the new Restriction Requirement issued 11/20/2007. Applicants are proceeding under the assumption that the Restriction Requirement of 08/23/07 is vacated.

Restriction Requirement

The Examiner has required restriction between the following inventions as required under 35 U.S.C. § 121:

Group I: Claims 1, 4-17, 84, 97-104, 105-107, 128-148, 152-160, 182-215¹, 217-219, 222-223, and 225 drawn to a pharmaceutical composition comprising a pharmaceutical agent, albumin, and deferoxamine in an amount effective to inhibit microbial growth; and

Group II: Claims 18, 108-127, 149-151, 161-181, 215-216, 220-221, and 224 drawn to a pharmaceutical composition comprising a pharmaceutical agent, albumin, and deferoxamine in an amount effective to inhibit oxidation.

¹ Applicants note that claim 215 is dependent from claim 110, as such claim 215 belongs in Group II.

The Examiner further requires an election of species among: paclitaxel, docetaxel, taxanes, camptothecin, propofol, amiodarone, cyclosporine, rapamycin, amphotericin, liothyrones, epothonones, colchicines, thyroid hormones, vasoactive intestinal peptide, corticosteroids, melatonin, tacrolimus, mycophenolic acids (claims 1, 114, 134).

The Examiner has further indicated that if the species encompasses additional (sub)species (*i.e.* taxane), a further (sub)species election is required (*i.e.* paclitaxel or docetaxel, etc.).

Applicants hereby provisionally elect Group I (claims 1, 4-17, 84, 97-104, 105-107, 128-148, 152-160, 182-215, 217-219, 222-223, and 225) without traverse.

Applicants further elect the species taxane and the (sub)species paclitaxel under 35 U.S.C. § 121 for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Claims 1, 5-14, 84, 97-101, 103-107, 128-142, 148, 152-153, 182-183, 189-190, 196-197, 203-204, 206-207, 209-211, 217-219, 222, 223, and 225 read on the elected (sub)species.

Applicants expressly reserve the right to file a divisional application directed on the non-elected subject matter during the pendency of this application, or an application claiming priority from this application. Applicants' elections are made without prejudice. As noted by the Examiner, upon the allowance of a generic claim, Applicants will be entitled to consideration of claims to not more than a reasonable number of species in addition to the elected species, provided that all claims to each additional species are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.146.

An action on the merits of all the claims and a Notice of Allowance thereof are respectfully requested.

Conclusion

In the unlikely event that the transmittal form is separated from this document and the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 420052000300. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: December 20, 2007

Respectfully submitted,

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